

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

---

TEAM ANGRY FILMWORKS, INC., a  
California corporation,

Plaintiff,

v.

LOUISE A. GEER, as Trustee of the DILLE  
FAMILY TRUST, and DOES 1-10, inclusive,

Defendants.

---

**No. 2:15-cv-01381-JFC**

**The Honorable Joy Flowers Conti**

**ELECTRONICALLY FILED**

**DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S COMPLAINT PURSUANT TO  
FEDERAL RULES OF CIVIL PROCEDURE 12(b)(1) AND 12(b)(6)**

Defendant Louise Geer, as the Trustee of the Dille Family Trust, (“Defendant”), by and through the undersigned counsel, moves the Court to dismiss the Complaint filed against Defendant by Plaintiff Team Angry Filmworks, Inc. (“Plaintiff”) pursuant to Federal Rules of Civil Procedure (“Fed.R.Civ.P.”) 12(b)(1) and 12(b)(6), stating as follows:

1. Plaintiff filed the Complaint against Defendant, alleging that Defendant has interfered with the lawful motion picture development of literary material that lies in the public domain.
2. In its Complaint, Plaintiff seeks a declaration from this Court that “copyright having expired in the United States and the world . . . as to the ‘Anthony Rogers’ aka ‘Buck Rogers’ character . . ., any member of the public, including Plaintiff, has the right in the United States to copy the expression embodied in this public domain work, and to create and exploit derivative works incorporating any and all of the ‘Anthony Rogers’ aka ‘Buck Rogers’ character without infringing any right of DEFENDANT under copyright.”

3. Plaintiff's Complaint alleges nothing more than the boilerplate legal conclusion that "[a]n actual controversy exists between Plaintiff and Defendant as to whether the development of a motion picture project ... will infringe rights asserted by Defendant."

4. Plaintiff does not allege that it has secured financing or distribution for its putative film, that a screenplay has been written and approved for production, that Plaintiff has secured binding commitments from key talent, such as the director and stars of this project, or that there is a start date for production or a release date.

5. Absent allegations of such "meaningful preparations" to conduct infringing activity of sufficient immediacy and reality to warrant the issuance of a declaratory judgment, the Complaint violates both Fed. R. Civ. P. Rule 12(b)(1) and 12(b)(6) by failing to allege a justiciable case or controversy under the Declaratory Relief Act, 28 U.S.C. §2201.

6. Moreover, the fact that the novella at issue, *Armageddon 2419 A.D.*, a copy of which is attached to the Complaint, fails to even include any character named "Buck Rogers" highlights the amorphous nature of the relief that Plaintiff is seeking.

7. Under 28 U.S.C. §2201, this Court may not adjudicate hypothetical disputes, or render advisory opinions based on an alleged potential infringement of insufficient immediacy and reality to constitute a substantial controversy.

8. Plaintiff is merely seeking an advisory opinion regarding a hypothetical dispute, and thus has failed to plead a claim for relief or a justiciable case or controversy under 28 U.S.C. §2201.

9. Thus, the Complaint is fatally deficient, fails to state a claim, does not invoke the jurisdiction of this Court, and should be dismissed in its entirety.

10. Defendant's grounds for dismissal of the Complaint are set forth in greater detail in the separately filed Memorandum of Law In Support of Defendant's Motion to Dismiss Plaintiff's

Complaint Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), which is fully incorporated herein.

WHEREFORE, Defendant Louise Geer, as Trustee of the Dille Family Trust, respectfully requests that this Court dismiss Plaintiff's Complaint against her in its entirety, with prejudice, and award her such further relief as the Court deems just and appropriate.

Respectfully submitted,

**FOX ROTHSCHILD LLP**

DATED: November 6, 2015

s/ David Aronoff

David Aronoff (admitted *pro hac vice*)  
Ca. State Bar No. 125694  
1800 Century Park East, Suite 300  
Los Angeles, CA 90067-1506  
Telephone: (310) 598-4150  
Facsimile: (310) 556-9828  
[daronoff@foxrothschild.com](mailto:daronoff@foxrothschild.com)

Jana C. Volante  
Pa. ID No. 308889  
BNY Mellon Center  
500 Grant Street, Suite 2500  
Pittsburgh, PA 15219  
Telephone: (412) 391-1334  
Facsimile: (412) 391-6984  
[jvolante@foxrothschild.com](mailto:jvolante@foxrothschild.com)

*Counsel for Defendant,  
Louise A. Geer, as Trustee of the  
Dille Family Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to Local Rule 5.6 of the United States District Court for the Western District of Pennsylvania, the foregoing Defendant's Motion to Dismiss Plaintiff's Complaint Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) has been served by electronic means through the Court's transmission facilities on the following counsel of record:

Charles Michael Coate, Esquire  
Theresa E. Johnson, Esquire  
Abrams Coate LLP  
12400 Wilshire Boulevard, Suite 1060  
Los Angeles, CA 90025  
[ccoate@abramscoate.com](mailto:ccoate@abramscoate.com)  
[tjohnson@abramscoate.com](mailto:tjohnson@abramscoate.com)

FOX ROTHSCHILD LLP

Date: November 6, 2015

s/ David Aronoff  
\_\_\_\_\_  
David Aronoff